IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEALS No 2755 to 2781 of 2004

with

FIRST APPEALS No 497 to 523 of 2005

For Approval and Signature:

HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

KHUSHALBHAI DEVJIBHAI PATEL

Versus

SPL.LAQ OFFICER

Appearance:

1. First Appeals No. 2755 to 2781 of 2004
   MR AJ PATEL for Appellant
   MR SIRAJ GORI, AGP for Respondents
2. First Appeals No. 497 to 523 of 2005
   MR SIRAJ GORI, AGP for Appellants
   MR AJ PATEL for Respondent

CORAM : HON'BLE MR.JUSTICE B.J.SHETHNA
and
HON'BLE MR.JUSTICE M.C.PATEL

Date of decision: 06/05/2005

COMMON ORAL JUDGEMENT

(Per : HON'BLE MR.JUSTICE B.J.SHETHNA)

First Appeals No.2755 to 2781 of 2004 a.....T.....T.....

No.497 to 523 of 2005 are filed by the appellants Special Land Acquisition Officer and Executive Engineer against the impugned common judgment and award dated 22nd November, 2002 passed by the learned Civil Judge (S.D.), Surat in Land Reference Cases Nos.2/98 to 28/98 whereby the Reference Court awarded, in all, Rs.16/- per sq.mtr. instead of Rs.3.25 ps. to Rs.3.50 ps. awarded by the Land Acquisition Officer.

2. The following chart shows that out of those 27 Land Reference Cases, only in five cases, the additional amount awarded by the Reference Court is substantial ranging from Rs.27,000/- to Rs.51,000/- and in some of the cases, the amount is even less than Rs.1,000/-.

NO.	L.A.R. No.	Survey/Block No.	AREA IN Sq. Mtr.	Addition Comp. Award by the court Rs.12.75 & 12.50 per JJJJJJJJJ tr.	30% SOLATIUM	2% Increase from 9-10-89 to 11-5-92	TOTAL Col.5+6+7
1.	5/98	160	528	6600 = 00	1980 = 00	1980 = 00	10560 = 00
2.	2/98	18	2016	25704 = 00	7711 = 00	7711 = 00	JJJJJJJJJJJJJJJJJJ JJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJJ

JJJJ

JJJJJJJJJJJJJJ JJJJJJJJJJJJJJ

JJJJ

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          |        |              |         |                |             |
                  |
     20.  |21/98   |    313       |   608   |   7752 = 00    | 2325 = 60   |
2325 = 60        | 12403 = 20
          |        |              |         |                |
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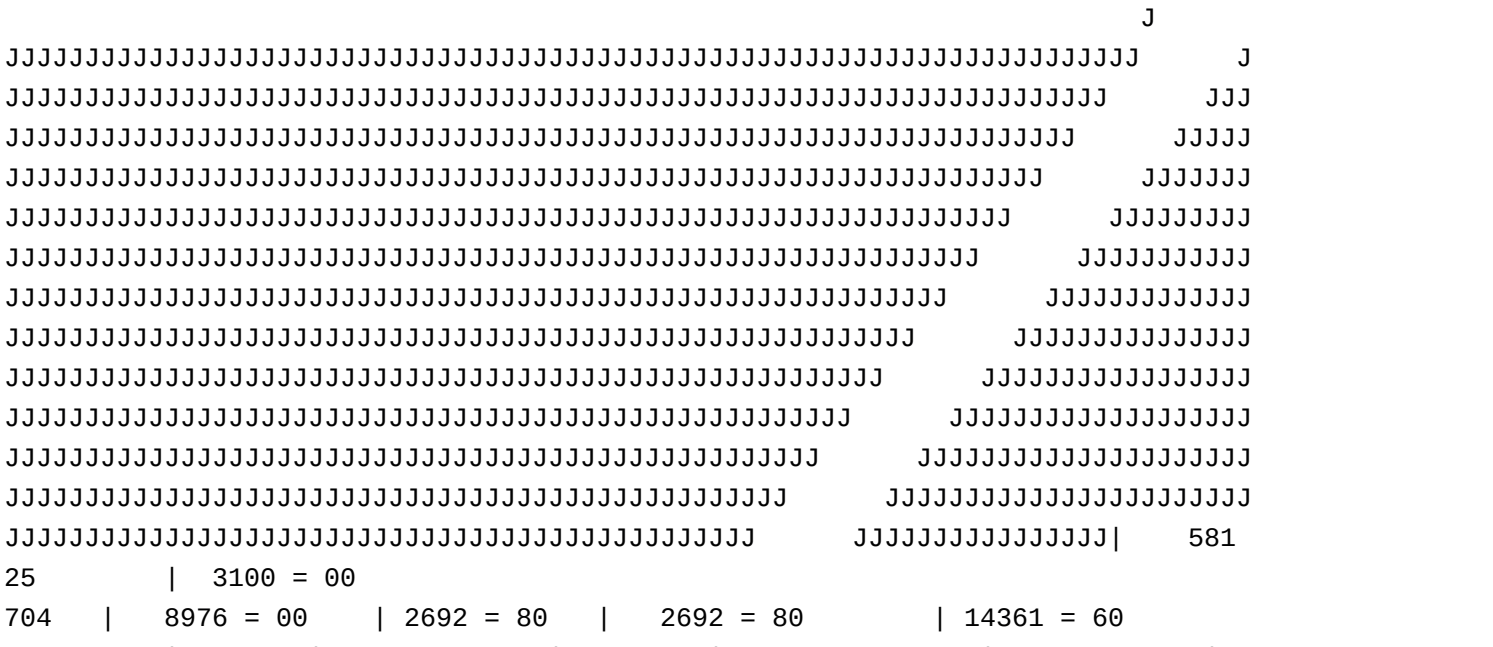

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25        |  3100 = 00
704   |   8976 = 00    | 2692 = 80   |   2692 = 80        | 14361 = 60
          |        |              |         |                |             |
                  |
     22.  |23/98   |    282       |   136   |   1734 = 00    |  520 = 20   |
 520 = 20        |  2774 = 40
          |        |              |         |                |             |
                  |
     23.  |24/98   |    154       |   155   |   1937 = 50    |  581 = 25   |
 581 = 25        |
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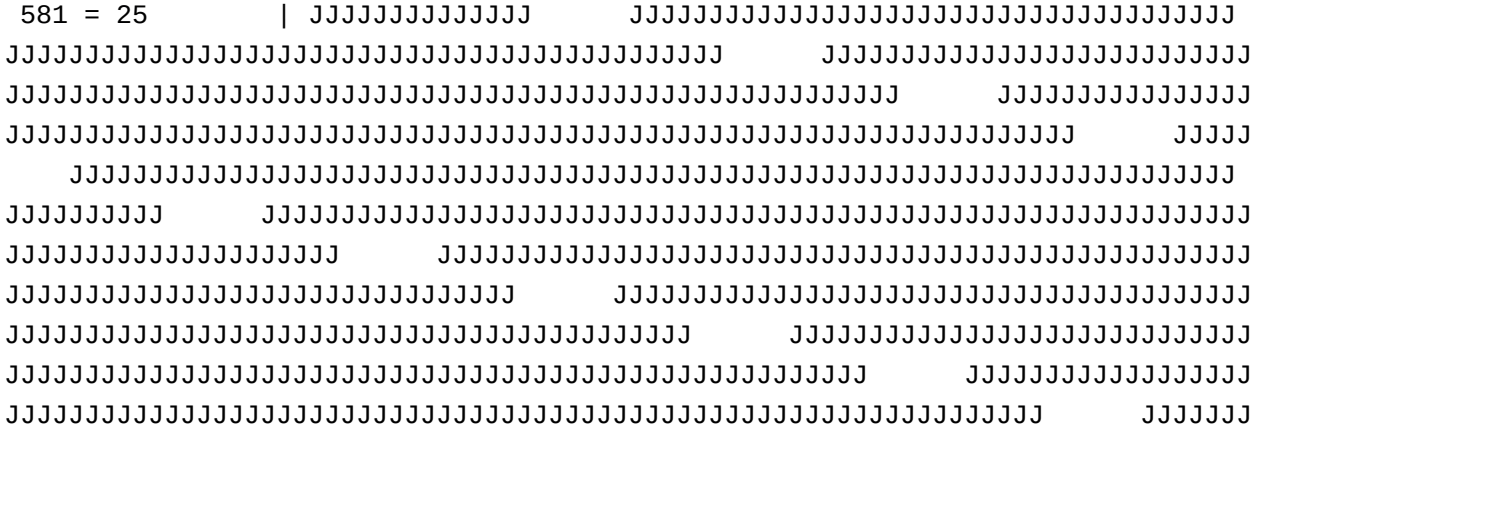

JJJJJJJJJJJJJ| |

| | | | |
| | 163 | 1392 | 17748 = 00 | 5324 = 40 |
5324 = 40 | 28396 = 80
| | | | | |
|
| | | | | |
| 31496 = 80
| | | | | |
JJJJJJJJJJJJJJJ   JJJJJJJJJJJJJJJ

| | 267 | 304 | 3876 = 00 | 1162 = 80 |
1162 = 80 | 6201 = 60
| | | | |

JJJJJ
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| | | | | |
JJJJ

were acquired, it was less. At the same time, this court cannot overlook the fact that village Ariyana was within the limits of Surat Urban Development Authority (SUDA) and there is a tremendous growth in the industries in the nearby village Ariyana. It has also come in evidence of the claimants that they were taking two cash crops of paddy, sugarcane, cotton etc. in a year and their lands being near Tapti river, it is bound to be fertile.

5. Under the circumstances, we are of the considered opinion that the claimants would be entitled for compensation atleast at the rate of Rs.20/- per sq.mtr. which would be just and proper and the learned Reference Court ought to have awarded the same but instead of that, it has awarded only Rs.16/- per sq.mtr.

5.1 In view of the above discussion, First Appeals No.2755 to 2781 of 2004 filed by the appellants - claimants are partly allowed and the respondents - Special Land Acquisition Officer and Executive Engineer are hereby ordered to pay additional compensation at the rate of Rs.4/- per sq.mtr. in addition to Rs.16/- awarded by the Reference Court i.e. in all, Rs.20/- per sq.mtr. to the claimants. Rest of the judgment and award passed by the Reference Court is confirmed.

6. Once we have partly allowed the appeals filed by the appellants - claimants, then obviously cross-appeals i.e. First Appeals No.497 to 523 of 2005 filed by the Special Land Acquisition Officer and the Executive Engineer are required to be dismissed. However, learned AGP Shri Gori made a valiant attempt by submitting that the Reference Court should have relied on the Valuer's report. That is not the only piece of evidence which could have been considered either by the Reference court or this court. The principle is that whenever the lands of poor farmers are acquired then those poor farmers - claimants should be awarded just and proper amount. Rs.20/- per sq.mtr. cannot be said to be either exorbitant or excessive. Ordinarily, for the lands in the vicinity of Surat and within the limit of SUDA, it is awarded around Rs.30/- depending on the year of notification issued under Section 4 of the Act. Surat is the economic capital of the State of Gujarat. Though we have not relied on the judgments of the Reference Court for the nearby villages of Kawas, Ichchhapore and Mora, on overall consideration of the evidence on record, we are of the considered opinion that Rs.20/- per sq.mtr. would be the just compensation. Therefore, we have awarded Rs.20/- per sq.mtr.

7. In view of the above discussion, First Appeals

No.497 to 523 of 2005 filed by the Special Land Acquisition Officer and Executive Engineer are hereby dismissed. However, there shall be no order as to costs in both the group of appeals.

(B.J. Shethna, J.)

(M.C. Patel, J.)

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